IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 219 of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

---

GANDEVI TALUKA KHEDUT SAHAKARISANGH LIMITED
Versus
COMMISSIONER OF INCOME-TAX

---

Appearance:
MR RK PATEL with MR BD KARIA for Petitioner
MR BB NAIK for Respondent No. 1

---

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE M.S.SHAH

Date of decision: 06/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference, at the instance of the assessee the following question has been referred to us for Assessment Year 1979-80 :-

"Whether the Tribunal was justified in law in confirming the order as to bifurcating expenses against different type of incomes and in recomputing the amount of profits and gains attributable to activities specified in section 80P(2)(a)(iv) of the Act ?."

2. This reference arises from the Tribunal's order dated 19.3.1985. In the said order, the Tribunal has clearly stated that it was following its order in the assessee's own case for Assessment Years 1975-76 to 1977-78 (ITA Nos. 174 to 176/80 decided on 17.1.1981). The aforesaid order dated 17.1.1981 came up for scrutiny of this Court and an identical question was referred and came to be considered by this Court in Gandevi Taluka Khedut Sahakari Sangh Ltd. vs. CIT, (1994) 207 ITR 175.

After considering the relevant statutory provisions of the Act, this Court came to the conclusion that in view of the settled legal position, while granting deduction under section 80P(2)(a)(iv), only the net income attributable to the activities under section 80P(2)(a)(iv) of the Act for the purchase of agricultural implements, livestock, etc., intended for supplying to agriculturists which was included in the gross total income could be deducted and not the gross total income from such activities.

3. In view of the above discussion, the question is answered in the affirmative i.e. in favour of the revenue and against the assessee.

The reference accordingly stands disposed of with no order as to costs.

(D.M. Dharmadhikari, CJ)

(M.S. Shah, J)

sundar/-